IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Crl.MC.No. 2430 of 2007()

CC.1267/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

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PETITIONER: ACCUSED:

BIJU P.G., S/O. GEORGE,
AGED 35 YEARS, PUTHIRICKAL HOUSE,
CHALAKKUDY P.O., THRISSUR.

BY ADV. SRI.P.NARAYANAN KUTTY
SRI.KRISHNA PRASAD. S

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM REPRESENTING S.I.
OF POLICE, CHALAKKUDY POLICE STATION, CHALAKKUDY.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2430 of 2007

Dated this the 27th day of July, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 420 I.P.C. Cognizance has been taken. Consequent to non appearance of the petitioner, a warrant of arrest has been issued by the learned Magistrate against the petitioner. According to the petitioner, he is absolutely innocent. His omission to appear earlier was not wilful. The petitioner has actually compounded the offence with the complainant. Entire amount due has already been paid. The petitioner is willing to appear before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general

directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. The petitioner is granted time till 22.08.2007 to appear before the learned Magistrate. Till then the warrant of arrest issued against him shall not be executed.

6. Hand over a copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

rtr/-